

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

LARRY KYNE,

Plaintiff,

v.

Case No.: 2:07-cv-75

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

**REPORT AND RECOMMENDATION**  
**THAT MOTION FOR REMAND BE GRANTED**

Plaintiff filed his Complaint on September 25, 2007 seeking Judicial review pursuant to 42 U.S.C. § 405(g) of an adverse decision by Defendant. On January 29, 2008, Defendant moved the Court to remand the case to the Commissioner of Social Security pursuant to the fourth sentence of 42 U.S.C. § 405(g). Counsel for Defendant informed the Court Plaintiff's counsel consents to the granting of the Motion.

It is recommended that Defendant's Motion be GRANTED and the case be remanded to the Commissioner of Social Security for further administrative review.

Any party who appears *pro se* and any counsel of record, as applicable, may, within ten (10) days after being served with a copy of this Report and Recommendation, file with the Clerk of the Court written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection. A copy of such objections should be submitted to the District Court Judge of Record. Failure to timely file objections to the Report and Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Report and Recommendation.

DATED: January 30, 2008

/s/ James E. Seibert  
JAMES E. SEIBERT  
UNITED STATES MAGISTRATE JUDGE